

Court
The United States District Court
For the Middle District of Alabama
Northern Division
MAY 15 2007

Objection of John Stephen Coleman Jr.

of Pro Se Representation

2:07-CV-294-MHT (WO)

Easterling Cos. Inc.

200 WALLACE DRIVE

CLIFAT 36017

In the United States District Court
For the Middle District of Alabama
Northern Division

2:07-CV-294-A-954

John Stephen Goleman, Sr.
223809 Petitioner

Versus

Warden Davenport et al.
Respondents

2:07-CV-294-
MHT (W0)

The Attorneys, Susan Russ
Walker, US Magistrate, file ordered by
May 24, 2007. Versus Jail House Lawyer

"T. Sunday, Pro Se: Petitioner's objection"

- 1: John Goleman, Sr. challenges his convictions for drug offenses entered against him in Circuit. Bullock County, Alabama pursuant to his guilty plea. Court Respondents (Doc. No. 7 to Exhs. A, B, C.) § 2244 (d)(2); See Artuz v. Bennett, 531 U.S. 4, 8 (2000); IF
- 2: Pursuant to the orders of this Court, Respondents filed an Answer in which an Answer they argue that the instant habeas petition is barred by the one Year limitation period applicable to 28 U.S.C. § 2254 petitions. The Petitioner argues supported with clearly established law and alleges foretelling ghost applications to Bar his state's habeas petition is not in the

Court
 OF Tolling: In *Lindh v. Murphy*, the Supreme Court ruled that the AEDPA will not be retroactively applied to non capital ~~petitions~~ habeas petitions that were pending as of April 24, 1996.

[3]: Because of Petitioner's Guilty Pleas on or around Nov. 15, 2004 to Dec. 9, 2004 is clearly before the Anti-Terrorism and Effective Death Penalty Act of 1996 (the AEDPA) is not applicable. As of April 24, 1996, the date the AEDPA became effective. 521 U.S. 320, 336 (1997); see also *Slack v. McDaniel*, 529 U.S. 473, 482 (2000) (AEDPA standard not applied to habeas action before actions.

(4): Failure to allege an essential element of the charged offense is a jurisdictional defect that renders the indictment void. *Ex Parte Lewis*, 811 So.2d 485 (Ala. 2001); *Stringer v. Hedgpeth*, 280 F.3d 826, 829 (8th Cir. 2002); As order explains pertinent, the motion [Per. 24.4] was denied by operation of law on Feb. 7, 2005, 1 year, one month before the Act became effective. *Fisher v. Gibson*, 282 F.3d 1283, 1290 (10th Cir. 2002);

(5): Even if that Application contains procedurally barred claims: *Blancy v. Florida Dept. of Corr.*, 246 F.3d 1328, 1331 (11th Cir. 2001);

- Court*
- (6) Initial Petitions filed before, Prior to AEDPA enactment, *Szuchor v. Lechman*, 273 F.3d 292, 312 (3rd Cir. 2001) (AEDPA standard not applied where initial Petition filed Prior to AEDPA enactment); *Mewez v. Weldon*, 283 F.3d 179, 184 (Mandatory Discovery Rule 26 all document incorporated)
- (7) *In Lopez v. Scully*, 58 F.3d 381, 43 (2d Cir. 95) (resentencing hearing mandated for Petitioner ineffectively represented by Counsel; Production of documents Rule 34 not Fed. Rules Civ. Pro-8); Cause is shown in Paragraphs 1 through 7 requires evidentiary hearing, let sentence aside and relief granted);

Respectfully Submitted
John Coleman
 John Coleman thru
 Jailhouse Lawyer
 Johnson v. Avery
 393 US 483: 21 U.S. 2d
 718.

Certificate of service

John Coleman here by deposits this brief the 11th day of MAY, 2007 and he respectively means business.

28 U.S.C. § 1746

John Steven Coleman
 EA Sterling Bonfay, G2-13A
 200 Wallace Drive
 Ellettsville, AL 36017

MONTGOMERY AL 361

14 MAY 2007 PM 1 T



[Handwritten signature]
 J. A. T. L.

Office of The Clerk
 United States District Court
 P.O. Box 711
 Montgomery Alabama
 36101-0711

36101-0711



MAG. Walker
Susan Russ Sum

The United States District Court For
The Middle District of Alabama
Northern Division

John Stephen Goleman "Sr." versus Warden
DAVENPORT Respondents, Et. Al.

Jail House Lawyer, "Tim Sunday," #213453

Greetings!

1: Specifically, John Goleman "Sr." challenges his CON-
victions for drug offenses entered "Bullock County,
Alabama, pursuant to his guilty, see "Court, Respond-
ents (Doc. No. 7, Exhs. A, B, C, hereby Incorporated."
§ 2254 (d)(2); See Artuz v. Bennett, 531 U.S. 478,
(2000):

IF:

2: Pursuant to the Orders of this Honorable Court,
Answer of Respondents filed, argue this instant
habeas Petition is barred by the one year limitat-
ion period applicable to 28 U.S.C. § 2254 Pet's
It is the argument of the Petitioner, supported
with clearly established law, and allegation's
Portelling ghost Applications to bar his state, Fed,
habeas corpus Petition is not in the best inter-
ests of Law. Tolling. See Linch v. Murphy, where the
Supreme Court ruled that the AEDPA will not be
retroactively applied to non capital habeas Petiti-
ioners that were pending as of April 24-1996.

Please turn over

3: Because of Petitioner's Coleman's Guilty Pleas ON or about Nov. 15th, 2004 to Dec. 9, 2004, it clearly, established before the Anti-Terrorism And EFFECTIVE (Sorry) -- Death Penalty Act of 1996 [the AEDPA] is NOT APPLICABLE. AS OF APR-IL 24, 96, the date the [AEDPA] became effective. 521 U.S. 320, 336 (1997); See Also, "SLACK V. McDANIEL, 529 U.S. 573, 582 (2000) (AEDPA); Standard NOT APPLIED to habeas ACTION before ACTION.

(4): Failure to allege an essential element of the charged offense is a jurisdictional defect that renders the indictment void. Ex-Parte Lewis 81 So.2d 485 (ALA. 2000); Striner v. Hedgpeth 380 F.3d 826, 829 (8th Cir. 2002); As order explains Pertinent, The motion [24.4] was denied by operation of law on 2-2-2005 & 1 Year, one month before the Act became effective Fisher v. Gibson 282 F.3d 1283, 1290 (10th Cir. 2002).

5: Even if that Application contains procedurally barred claims; Delaney v. Florida Dep't. of Corrections 296 F.3d 1328, - 1331 (11th Cir. 2001).

(6) Initial Petitions filed before, Prior to AEDPA enactment: *Szuchon v. Lechman*, 273 F.3d 199, 312 (3d Cir. 2001) (AEDPA standard Not Applied where initial Petition filed Prior to AEDPA enactment); *McWhee v. Weldon*, 283 F.3d 179, 184 (4th Cir. 2002); *Given v. Cockrell*, 265 F.3d 306, 308 (5th Cir. 2001) (AEDPA standard Not Applied because Petition filed Prior to AEDPA's effective date); *Mandatory Discovery Rule 26*, All arguments incorporated.

(7) *Lopez v. Scully*, 58 F.3d 38, 43 (2d Cir. 95) (re-sentencing hearing mandated for Petitioner ineffectively represented by Counsel. Production of documents: Fed. Rule 34, Civil Procedure.

8. Cause is shown in Paragraphs 1 through 7 requires evidentiary hearing, set sentence aside and relief granted.

Respectfully
Submitted

Certificate of Service

Certified mailed this 11th day of
MAY 2007, Mail Box Rule Heister
U-LACK,

28 U.S.C. § 1794